

amount for an ambulatory surgical center for a calendar year.

“(ii) REQUIREMENTS.—In specifying the value-based percentage amount for each ambulatory surgical center for a calendar year under clause (i), the Secretary shall ensure that such percentage is based on—

“(I) the ASC performance score of the ambulatory surgery center under subparagraph (F); and

“(II) the amount of the total savings pool made available under subparagraph (I)(iii)(I) for such year.

“(I) ANNUAL CALCULATION OF SHARED SAVINGS FUNDING FOR VALUE-BASED INCENTIVE PAYMENTS.—

“(i) DETERMINING BONUS POOL.—In each year of the Program, ambulatory surgery centers shall be eligible to receive payment for shared savings under the Program only if for such year the sum of—

“(I) the estimated amount of expenditures under this title for Medicare fee-for-service beneficiaries (as defined in section 1899(h)(3)) for surgical services for which payment is made under the payment system under paragraph (2), adjusted for beneficiary characteristics, and

“(II) the estimated amount of expenditures under this title for Medicare fee-for-service beneficiaries (as so defined) for the same surgical services for which payment is made under the prospective payment system under subsection (t), adjusted for beneficiary characteristics,

is at least the percent specified by the Secretary below the applicable benchmark determined for such year under clause (ii). For purposes of this subparagraph, such sum shall be referred to as ‘estimated expenditures’. The Secretary shall determine the appropriate percent described in the preceding sentence to account for normal variation in volume of services under this title and to account for changes in the coverage of services in ambulatory surgery centers and hospital outpatient departments during the performance period involved.

“(ii) ESTABLISH AND UPDATE BENCHMARK.—For purposes of clause (i), the Secretary shall calculate a benchmark for each year described in such clause equal to the product of—

“(I) estimated expenditures described in clause (i) for such year, and

“(II) the average annual growth in estimated expenditures for the most recent three years.

Such benchmark shall be reset at the start of each calendar year, and adjusted for changes in enrollment under the Medicare fee-for-service program.

“(iii) PAYMENTS BASED ON SHARED SAVINGS.—If the requirement under clause (i) is met for a year—

“(I) 50 percent of the total savings pool estimated under clause (iv) for such year shall be made available for shared savings to be paid to ambulatory surgical centers under this paragraph;

“(II) a percent (as determined appropriate by the Secretary, in accordance with subparagraph (H)) of such amount made available for such year shall be paid as shared savings to each ambulatory surgery center that is determined under the Program to have met or exceeded performance scores for such year; and

“(III) all funds made available under subsection (I) for such year shall be used and paid as sharing savings for such year in accordance with subclause (II).

“(iv) ESTIMATE OF THE TOTAL SAVINGS POOL.—For purposes of clause (iii), the Secretary shall estimate for each year of the Program the total savings pool as the product of—

“(I) the conversion factor for such year determined by the Secretary under the payment system under paragraph (2)(D) divided by the conversion factor calculated under subsection (t)(3)(C) for such year for covered OPD services, multiplied by 100, and

“(II)(aa) the product of the estimated Medicare expenditures for surgical services described in clause (i)(I) furnished during such year to Medicare fee-for-service beneficiaries (as defined in section 1899(h)(3)) for which payment is made under subsection (t) and the average annual growth in the estimated Medicare expenditures for such services furnished to Medicare fee-for-service beneficiaries (as so defined) for which payment is made under subsection (t) in the most recent available 3 years, less

“(bb) the estimated Medicare expenditures for surgical services described in clause (i)(I) furnished to Medicare fee-for-service beneficiaries for which payment was made under subsection (t) in the most recent year.

“(J) NO EFFECT IN SUBSEQUENT CALENDAR YEARS.—The value-based percentage amount under subparagraph (H) and the percent determined under subparagraph (I)(iii)(I) shall apply only with respect to the calendar year involved, and the Secretary shall not take into account such amount or percentage in making payments to an ambulatory surgery center under this section in a subsequent calendar year.”

SEC. 4. ADVISORY PANEL ON HOSPITAL OUTPATIENT PAYMENT REPRESENTATION.

(a) ASC REPRESENTATIVE.—The second sentence of section 1833(t)(9)(A) of the Social Security Act (42 U.S.C. 1395l(t)(9)(A)) is amended by inserting “and suppliers subject to the prospective payment system (including at least one ambulatory surgical center representative)” after “an appropriate selection of representatives of providers”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5. REASONS FOR EXCLUDING ADDITIONAL PROCEDURES FROM ASC APPROVED LIST.

(a) IN GENERAL.—Section 1833(i)(1) of the Social Security Act (42 U.S.C. 1395l(i)(1)) is amended by adding at the end the following: “In updating such lists for application in years beginning after the date of the enactment of this sentence, for each procedure that was requested to be included in such lists during the public comment period but which the Secretary does not propose (in the final rule updating such lists) to so include in such lists, Secretary shall cite in such final rule the specific criteria in paragraph (b) or (c) of section 416.166 of title 42, Code of Federal Regulations, based on which the procedure was excluded. If paragraph (b) of such section is cited for exclusion of a procedure, the Secretary shall identify the peer reviewed research or the evidence upon which such determination is based. The Secretary may not use or cite section 416.166(c)(7) of such title as criteria or a basis for exclusion of a procedure from such lists.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to lists of ambulatory surgery procedures for application in years beginning after the date of the enactment of this Act.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1181. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 1182. Mr. LEAHY submitted an amendment intended to be proposed by him to the

bill S. 744, supra; which was ordered to lie on the table.

SA 1183. Mr. LEAHY (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 744, supra.

SA 1184. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1185. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1186. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1187. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1188. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1189. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1190. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1191. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1192. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1193. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1194. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1195. Mr. GRASSLEY (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 744, supra.

SA 1196. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1197. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1198. Mr. TESTER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1199. Mrs. BOXER (for herself and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

SA 1200. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1201. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1202. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1203. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1204. Mr. INHOFE submitted an amendment intended to be proposed by him to the

bill S. 744, supra; which was ordered to lie on the table.

SA 1205. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1206. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1207. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1208. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1209. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1210. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1211. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1212. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1213. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1214. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1215. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1216. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1217. Mr. LEE submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1218. Mr. UDALL, of New Mexico (for himself and Mr. HEINRICH) submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1219. Mr. MANCHIN submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1220. Mr. MANCHIN submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1221. Mr. MANCHIN submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1222. Ms. LANDRIEU (for herself, Mr. COATS, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed by her to the bill S. 744, supra; which was ordered to lie on the table.

SA 1223. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1224. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1225. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1181. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1094, strike lines 16 through 24, and insert the following:

“(6) TREATMENT OF SPOUSES AND CHILDREN.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a spouse or child of a nonimmigrant agricultural worker—

“(i) shall not be entitled to a visa or any immigration status by virtue of the relationship of such spouse or child to such worker; and

“(ii) may be provided status as a nonimmigrant agricultural worker if the spouse or child is independently qualified for such status.

“(B) EXCEPTION.—Notwithstanding subparagraph (A)(i)—

“(i) an alien spouse and minor children of a nonimmigrant agricultural worker whose contract or offer of employment is for a period of 1 year or more may be admitted to the United States pursuant to clause (iii) or (iv) of section 101(a)(15)(W) during the period of the principal nonimmigrant agricultural worker's admission;

“(ii) such alien spouse and minor children shall not be counted against the numerical limitation in subsection (c); and

“(iii) such alien spouse shall be—

“(I) authorized to engage in employment in the United States during such period of admission; and

“(II) provided with an employment authorization document, stamp, or other appropriate work permit.

“(C) RULE OF CONSTRUCTION.—Nothing in subparagraph may be construed to require an employer of a nonimmigrant worker to provide housing or a housing allowance to the spouse or child of such worker.

SA 1182. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ MARRIAGE.

(a) RULE OF CONSTRUCTION.—Title I (8 U.S.C. 1101 et seq.) is amended by adding at the end the following:

“SEC. 107. RULE OF CONSTRUCTION.

“Notwithstanding section 7 of title 1, United States Code, an individual shall be considered a ‘spouse’ and a marriage shall be considered a ‘marriage’ for the purposes of this Act if—

“(1) the marriage of the individual is valid in the State in which the marriage was entered into; or

“(2) in the case of a marriage entered into outside of any State, the marriage is valid in the place in which the marriage was entered into and the marriage could have been entered into in a State.”.

(b) CONFORMING AMENDMENT.—Section 202(b)(2) (8 U.S.C. 1152(b)(2)) is amended—

(1) by striking “his spouse” and inserting “his or her spouse”; and

(2) by striking “husband and wife” and inserting “the spouses”.

SA 1183. Mr. LEAHY (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehen-

sive immigration reform and for other purposes; as follows:

At the end of subtitle D of title IV, add the following:

SEC. 4416. INTERNATIONAL PARTICIPATION IN THE PERFORMING ARTS.

Section 214(c)(6)(D) (8 U.S.C. 1184(c)(6)(D)) is amended—

(1) in the first sentence, by inserting “(i)” before “Any person”; and

(2) in the second sentence—

(A) by striking “Once” and inserting “Except as provided in clause (ii), once”; and

(B) by striking “Attorney General shall” and inserting “Secretary of Homeland Security shall”; and

(3) in the third sentence, by striking “The Attorney General” and inserting “The Secretary”; and

(4) by adding at the end the following:

“(ii) The Secretary of Homeland Security shall adjudicate each petition for an alien with extraordinary ability in the arts (as described in section 101(a)(15)(O)(i)), an alien accompanying such an alien (as described in clauses (ii) and (iii) of section 101(a)(15)(O)), or an alien described in section 101(a)(15)(P) (other than an alien described in paragraph (4)(A) (relating to athletes)) not later than 14 days after—

“(I) the date on which the petitioner submits the petition with a written advisory opinion, letter of no objection, or request for a waiver; or

“(II) the date on which the 15-day period described in clause (i) has expired, if the petitioner has had an appropriate opportunity to supply rebuttal evidence.

“(iii) If a petition described in clause (ii) is not adjudicated before the end of the 14-day period described in clause (ii) and the petitioner is an arts organization described in paragraph (3), (5), or (6) of section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code for the taxable year preceding the calendar year in which the petition is submitted, or an individual or entity petitioning primarily on behalf of such an organization, the Secretary of Homeland Security shall provide the petitioner with the premium processing services referred to in section 286(u), without a fee.”.

SA 1184. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1305, between lines 8 and 9, insert the following:

“(D) FRANCHISOR LIABILITY.—Nothing in this section may be construed to hold a franchisor civilly liable as a result of any violation of this section committed by a franchisee or by an agent of the franchisee.

SA 1185. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1791, strike line 24 and all that follows through page 1792, line 4, and insert the following:

“(2) PROHIBITION ON DIRECT PAYMENTS FROM A UNITED STATES SOURCE.—During a period of admission pursuant to paragraph (1), an alien may not receive direct payments from a United States source, except for incidental expenses for meals, travel, lodging, and other basic services.”.

SA 1186. Mr. SCHUMER submitted an amendment intended to be proposed by